

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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PRIVACY INTERNATIONAL, AMERICAN CIVIL  
LIBERTIES UNION, AMERICAN CIVIL  
LIBERTIES UNION FOUNDATION; and  
CIVIL LIBERTIES AND TRANSPARENCY CLINIC,

Plaintiffs,

v.

18-CV-1488

FEDERAL BUREAU OF INVESTIGATION, et al.

Defendants.

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**JOINT STATUS REPORT**

Pursuant to the Text Order of United States Magistrate Judge Hugh B. Scott dated January 31, 2020, plaintiffs Privacy International, American Civil Liberties Union, American Civil Liberties Union Foundation and Civil Liberties & Transparency Clinic, and defendants Federal Bureau of Investigation (“FBI”), Drug Enforcement Administration (“DEA”), Department of Justice Criminal Division, U.S. Immigration and Customs Enforcement (“ICE”), U.S. Customs and Border Protection (“CBP”), Internal Revenue Service (“IRS”), U.S. Secret Service (“USSS”), Department of Justice Office of Inspector General (“DOJ-OIG”), Department of Homeland Security Office of the Inspector General (“DHS-OIG”), Department of Treasury Office of the Inspector General (“Treasury-OIG”) and Treasury Inspector General for Tax Administration (“TIGTA”) hereby file this joint status report.

In this action, plaintiffs seek to compel the production of records under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). This status report describes the current status of defendants’ searches and their review and production of records.<sup>1</sup>

1. TIGTA, DHS-OIG, Treasury-OIG and CBP: As explained in defendants’ Status Report dated September 10, 2019, four defendants – TIGTA, DHS-OIG, Treasury-OIG and CBP– have completed their searches and found no responsive records. *See* ECF No. 22 ¶¶ 15.g. & 16. Plaintiffs requested these agencies provide information of the nature of their searches. Pursuant to that request, TIGTA, DHS-OIG, and Treasury-OIG provided plaintiffs with descriptions of their searches on September 3, 2019, and CBP provided plaintiffs a description of its search on December 13, 2019. Based on those descriptions, plaintiffs have determined that they will not challenge the adequacy of the searches. *See* Joint Status Report dated Jan. 31, 2020, ECF No. 32 ¶ 1.

2. IRS, ICE, USSS, and DEA: As explained in prior Joint Status Report, four defendants – IRS, ICE, USSS, and DEA -- have completed their searches and productions in accordance with the interpretation and parameters set forth in defendants’ July 12, 2019 letter to plaintiffs. *See* ECF No. 32 ¶¶ 2-5. Plaintiffs are reviewing the records and the indices and/or explanation for the redactions. *Id.* If plaintiffs determine that they would like to challenge withholdings, redactions, or other aspects of these defendants’ responses, they will confer with defendants regarding a schedule for summary judgment briefing and submit any proposal to the Court in a subsequent status report. *Id.*

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<sup>1</sup> Defendants’ prior Status Report describes the background regarding plaintiffs’ FOIA requests and the efforts by the parties to clarify and narrow the scope of plaintiffs’ requests. *See* ECF No. 22.

3. Criminal Division: The Criminal Division has completed its search for potentially responsive records and currently is in the process of reviewing and processing those records. As explained in the prior Joint Status Report, the Criminal Division proposes to process 500 pages of potentially responsive pages per month and produce to plaintiffs any responsive, non-exempt records on a rolling basis. ECF No. 28 ¶ 6. Since the filing of the last Joint Status Report, the Criminal Division has made three additional monthly productions – one on November 20, 2020, one on December 17, 2020, and another on January 21, 2021.

4. DOJ-OIG: As explained in the last report, DOJ-OIG completed its search for all responsive, non-exempt material. On March 6, 2020, DOJ-OIG sent plaintiffs' counsel a letter producing 47 pages with portions of the records withheld pursuant to Exemptions 6, 7C, and/or 7E. ECF No. 37 ¶ 4.<sup>2</sup> In the letter, DOJ-OIG also explained that it located (1) twenty-one documents consisting of approximately 150 pages that originated with the FBI and (2) one document consisting of approximately 22 pages that originated with the Office of the Attorney General. *Id.* Pursuant to 28 C.F.R. § 16.4, DOJ-OIG referred these documents to the FBI and to the DOJ Office of Information Policy (for the Office of the Attorney General) for processing and direct response. *Id.* By letter dated December 14, 2020, the Office of Information Policy produced the 22 pages in full. The FBI addressed the pages referred by DOJ-OIG for processing in its response dated November 30, 2020, withholding portions of the pages.

5. FBI: Since the last status report, the FBI has made two additional monthly productions responses – one on October 30, 2020, and another on November 30, 2020. Those productions completed FBI processing for (1) the records identified in FBI's search except for the records

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<sup>2</sup> DOJ-OIG also noted that it had sent portions of four of the 47 pages that contained information of substantial interest to the FBI for consultation. Since the last status report, the FBI has provided DOJ-OIG with its position on what portion of this information is exempt from disclosure under the FOIA. DOJ-OIG is evaluating FBI's position and will inform plaintiffs of the results upon completion.

referred to other agencies for consultation and (2) the records referred by DOJ-OIG to the FBI for a direct response.

6. As indicated in their Joint Status Report on January 31, 2020 (ECF No. 32 ¶ 9), the parties proposed that they file quarterly status reports hereafter. The next quarterly report to be filed on April 30, 2021. As part of the next proposed status report, one or both parties may propose further orders regarding the management and scheduling of this case.

Dated: January 29, 2021

Respectfully submitted,

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